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March 21, 2000

BY HAND

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W. – Suite TW-A325
Washington, D.C. 20554

Re: Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas, CC Docket No. 00-04 / 00-4

Dear Ms. Salas:

On March 20, 2000, Michael Olsen, Deputy General Counsel, NorthPoint Communications, Inc. ("NorthPoint"), Christine Mailloux, Assistant General Counsel, NorthPoint and Ruth Milkman, Lawler, Metzger and Milkman, LLC, counsel to NorthPoint, met with Kyle Dixon, Legal Advisor to Commissioner Powell to present the enclosed material regarding issues pending before the Commission in the above-referenced proceeding.

Pursuant to section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. §1.1206(b)(1), an original and two copies of this letter and enclosure are being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,



Ruth Milkman

Enclosures

cc: Kyle Dixon

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List ABCDE

Southwestern Bell Telephone Texas 271 Application



NorthPoint

Michael Olsen
Christine Mailloux
NorthPoint Communications
March, 2000

- SWBT failed to meet its burden of demonstrating ability to meet current and foreseeable demand on DSL-specific basis
- TX PUC analysis and support of SWBT application is at odds with all commenters, is inaccurate and does not reflect actual performance
- TX PUC support relies on SWBT “paper promises”
- SWBT application asks Commission to pass on its compliance without benefit of reliable information on actual experience in meeting DSL needs

Commenters, DSL CLECs, DOJ all concur that SWBT has failed to provide adequate, clear and reliable information sufficient to support a Commission determination that SWBT has met its statutory obligations



- Showing of Commercial Readiness

SWBT must demonstrate that it can satisfactorily meet all current and foreseeable demand such that DSL CLECs have “meaningful opportunity to compete.”

- Flow-through preorder, ordering and provisioning;
- Independent demonstration of ability to meet scaling demand

- Affirmative DSL Showing

Unlike BA, SWBT must demonstrate compliance with 251, 252 requirements with DSL-specific showing

- Operational Separate Affiliate to demonstrate structural remedies in place
- Reliable Performance Measurements to show compliance



- Advanced Solutions Inc. (ASI) will rely on SWBT for entire DSL loop ordering and provisioning process until April 2000, four months after SWBT claimed to have a “fully operational” separate affiliate
- ASI/SWBT Interconnection Agreement contains no terms and conditions for permanent line sharing to judge nondiscrimination, undermining benefits of merger conditions



- SWBT has the burden of demonstrating that it has followed the law
 - Must make affirmative showing
 - Must be DSL specific
 - Not incumbent on Commission, competitors to show compliance “gaps” to rebuff faulty application
- Performance measurements offered in support of application were fatally flawed
 - CLEC Comments, DOJ comments uniformly indicate the SWBT performance measures are nonsensical, inconsistent, and -- even assuming accurate -- demonstrate lack of parity
 - Miscounting PM 55.1-Avg. Install Interval for DSL loops (excepting large numbers of orders)
 - Mismeasuring PM 57-Loop Makeup Information (fails to account for real performance by measuring only a subset of actual activity)
 - Misleading PM 60 - % Missed Installs (SWBT “excuses” out of parity showing by underscoring line sharing discrimination)
 - Missing DSL in PM 5 & 6-Firm Order Confirmations (no DSL specific showing as required by Commission)
- SWBT data “revisions” are late, inscrutable, unaudited, and insufficient to support its January application



- Highly Manual Processes

SWBT service representatives screen, process orders on order-by-order basis, slowing delivery, introducing error and inconsistencies, improperly rejecting NorthPoint orders

- Impact: Resource intensive order processing, not scalable to meet anticipated demand

- Requires Loop Prequalification/Qualification

SWBT's required loop pre-qual and qualification yields inaccurate, delayed and unhelpful results in loop provisioning cycle

- Impact: inability to set customer expectations, undermine customer confidence, unanticipated errors or denials of service

- Flow-through reserved for ADSL loops only

SWBT has implemented flow-through for its own, short-reach (12k) ADSL loops but has denied such scalable processes to DSL CLECs

- Impact: SWBT ADSL orders are provisioned more timely, accurately than competitive DSL loops



- Structural deficiencies in SWBT ordering and provisioning organizations result in regular miscommunications, date changes, delays in establishing services

Communication between SWBTs ordering center (LSC) and provisioning center (LOC) is manual, delayed and error-prone. CLEC interaction with LSC is, as a result, plagued by misinformation on loop order status.

- Impact: NorthPoint cannot reliably obtain accurate or timely information on status of loop orders, accurate installation commitments, or final installation confirmations



- TX PUC analysis on DSL issues is limited, anecdotal, inaccurate
 - DSL loop process changed dramatically in October, limiting DSL "showing" to three months
 - Key Texas DSL arbitration, upon which TX PUC relies as "compliance" not complete until December, implementation results not reflected in SWBT performance showing
 - Back loaded TX PUC attention to DSL issues (Nov, 1999) resulted in SWBT process improvement "commitments" in December, not reflected in SWBT performance showing
- Texas PUC - for both its opening and reply analysis - relied on incomplete data and flawed assumptions
 - TX PUC "approval" relied on heavily discredited "Telcordia DSL test" and SWBT's flawed performance filings
 - TX PUC replies focused on erroneous analysis of "reconciled" November data
 - PUC analysis used data that did not correspond to SWBT/NorthPoint submissions (inexplicable basis for analysis)
 - PUC analysis made apparently arbitrary determinations of order failure "fault" that do not correspond to actual experience (analysis inaccurate, not objective)
 - Relied POR, eventual flow-through, arbitration on "paper promises" of future performance, including compliance that are still not implemented
- No Third-Party or Agreed Upon basis for analyzing SWBT performance



- At a minimum, to demonstrate 271 checklist compliance, SWBT must correct the following :
 - Flow through for all DSL loops under 18Kft to ensure nondiscrimination, ability to meet scaling demands
 - Real-time, accurate, pre-order access to actual loop make up information
 - Eliminate structural failures and communication gap between LSC/LOC (see, e.g, Pacific Bell) to ensure timely and accurate information flow to CLEC on loop status
- SWBT must also verify its checklist compliance with a:
 - Focused/ limited third party analysis of DSL capable loop preorder, ordering and provisioning process to give Commission a clear and accurate picture of competitive landscape in Texas.
 - This analysis must include data from an operational separate affiliate's own DSL loop orders

